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Note verbale dated 27 October 2004 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Denmark to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and has, with reference to the latter's note verbale dated 21 June 2004, the honour to submit Denmark's national report in accordance with paragraph 4 of resolution 1540 (2004), with a view to participating actively in ensuring global implementation of the resolution (see annex).

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Annex to the note verbale dated 27 October 2004 from the Permanent Mission of Denmark to the United Nations addressed to the Chairman of the Committee

Report by the Government of Denmark. Drafted in accordance with United Nations Security Council Resolution 1540

Submitted to United Nations in New York, 28th of October 2004

Operative Paragraph 1
Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Denmark does not provide any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery.

Operative Paragraph 2
Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-state actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Manufacture and development of nuclear, chemical and biological weapons and their means of delivery
Manufacture and development of nuclear, chemical and biological weapons and their means of delivery is – depending on the form of weapon in question, cf. the definitions below – regulated in the following provisions of the War Equipment Act and the Weapons Act:

According to the War Equipment Act, Section 2, Subsection 1, cf. Section 1, Subsection 1, it is prohibited without a license from the Minister of Justice to manufacture
- *"Equipment designed for military use and having no civilian application".*
- *"Components and parts that are designed to be used in equipment, etc., as specified above and which have no civilian application".*

According to the Weapons Act, Section 1, Subsection 1, no. 4, it is prohibited without a license from the Minister of Justice to manufacture *"hand grenades, bombs, cartridges and similar objects appearing to be weapons or ammunition, which contain or are designed to contain solid substances,*

liquids or gases which, upon dispersion, cause injury, stun or irritate, and parts of such weapons or ammunition objects, together with equipment to operate them".

According to the Weapons Act, Section 5, it is prohibited without a license from the Minister of Justice to manufacture or develop *"solid substances, liquids or gases which, upon dispersion, have the effect of causing injury, stunning or irritating".*

Violation of the mentioned provisions in the War Equipment Act and the Weapons Act is a criminal offence.

Acquirement, possession, transfer and use of nuclear, chemical and biological weapons and their means of delivery

Acquirement, possession, transfer and use of nuclear, chemical and biological weapons and their means of delivery is – depending on the form of weapon in question, cf. the definitions below – regulated in the following provisions of the Weapons Act:

According to the Weapons Act, Section 1, Subsection 1, no. 4, cf. Section 2, Subsection 1, it is prohibited without a license from the Minister of Justice to acquire, posses or use *"hand grenades, bombs, cartridges and similar objects appearing to be weapons or ammunition, which contain or are designed to contain solid substances, liquids or gases which, upon dispersion, cause injury, stun or irritate, and parts of such weapons or ammunition objects, together with equipment to operate them".* Furthermore, according to the Weapons Act, Section 4, Subsection 3, cf. the Order on Weapons and Explosives Etc., Section 15, it is prohibited to possess or use "chemical weapons".

According to the Weapons Act, Section 2, Subsection 2, cf. the Order of Weapons and Explosives etc., Section 16, Subsection 1, it is prohibited to transfer ("convey or hand over") *"hand grenades, bombs, cartridges and similar objects appearing to be weapons or ammunition, which contain or are designed to contain solid substances, liquids or gases which, upon dispersion, cause injury, stun or irritate, and parts of such weapons or ammunition objects, together with equipment to operate them"* unless the person acquiring or receiving them produces the necessary licence and identifies himself as the licensee.

It should be noted that the above mentioned provisions, including the legal possibility of issuing licences, is administrated in accordance with the Treaty on the Non-proliferation of Nuclear Weapons (NPT), the Biological and Toxin Weapons Convention (BTWC) and the Convention on the Prohibition of Chemical Weapons (CWC). Thus, licences for nuclear, chemical and biological weapons can not be granted.

Violation of the mentioned provisions in the Weapons Act and the Order on Weapons and Explosives is a criminal offence.

Transportation of nuclear, chemical and biological weapons and their means of delivery

According to the Weapons Act, Section 7 a, cf the Order on Transportation of Weapons etc. between Third Countries, it is prohibited to transport *weapons (of any kind) and war equipment* to countries covered by a UN, EU or OSCE arms embargo. Furthermore, it is prohibited to transport weapons and war equipment between third countries if the competent authorities in these countries have not issued the necessary export and import licenses according to national legislation in these countries.

Violation of Section 7 a of the Weapons Act and the provisions of the Order on Transportation of Weapons etc. between Third Countries is a criminal offence. Furthermore, any transportation of weapons with the purpose of terrorism is a criminal offence according to the Criminal Code, Section 114, Subsection 1, cf. Subsection 2.

Attempt and complicity
Attempt to commit an offence is generally criminalized in the Criminal Code, Sections 21-22.

Complicity in the commission of an offence is generally criminalized in the Criminal Code, Section 23. In addition to this, special provisions on complicity concerning terrorism are listed in the Criminal Code, Sections 114 a and 114 b, cf. below.

Special provisions in the Criminal Code concerning weapons and terrorism
According to the Criminal Code, Section 114, Subsection 1, any person who, by acting with the intent to frighten a population to a serious degree or to unlawfully coerce Danish or foreign public authorities or an international organisation to carry out or omit to carry out an act or to destabilize or destroy a country's or an international organisation's fundamental political, constitutional, financial or social structures, commits gross weapons law violations pursuant to inter alia the Criminal Code, Section 192 a, cf. below, when the act due to its nature or the context, in which it is committed, can inflict serious damage on a country or an international organisation, shall be guilty of terrorism and liable to imprisonment for any term extending to life imprisonment. According to Section 114, Subsection 2, similar punishment shall apply to any person who, with the in Subsection 1 mentioned intent, among other things transports weapons. According to Section 114, Subsection 3, similar punishment shall further apply to any person who, with the intent mentioned in Subsection 1, threatens to commit one of the acts mentioned in Subsections 1 and 2.

The Criminal Code, Section 192 a, concerns any person who, in contravention of the legislation on weapons and explosives, imports, produces, owns, carries, uses, or transfers weapons or explosives which because of their highly dangerous character are suitable in causing significant damage, or any person who, in contravention of the legislation on weapons and explosives, develops or for the purpose hereof carries out research in solids, liquids, or gasses, which by diffusion have harmful, anaesthetizing or irritating effects.

According to Section 114 a, any person who
1) directly or indirectly provides financial support to;
2) directly or indirectly procures or collects means to; or
3) directly or indirectly places money, other assets or financial or other similar means at the disposal of;
a person, a group or an association, which commits or intends to commit acts of terrorism as included under Section 114 of this Act, shall be liable to imprisonment for any term not exceeding ten years.

According to Section 114 b, any person who otherwise by instigation, advice or action contributes to advance the criminal activity or the common purpose of a group or an association, which commits one or more acts included under Section 114 or Section 114 a, No. 1) or 2) of this Act, when the activity or the purpose involves that one or more acts of this nature is committed, shall be liable to imprisonment for any term not exceeding six years.

Finance
As Denmark is a member of the EU, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU Report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

Ongoing/Planned action:
Generally, Danish legislation already complies with the requirements of paragraph 2. However, not every aspect of this paragraph is explicitly covered by the above mentioned Danish provisions. Consequently, Denmark will make a further review of the weapons legislation in the light of resolution 1540 in order to establish any necessary amendments and, if necessary, introduce a bill to the Parliament before the end of 2005.

Operative Paragraph 3
Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall;

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport

(b) Develop and maintain appropriate effective physical protection measures

Nuclear, chemical and biological weapons
Denmark does not posses nuclear, chemical or biological weapons.

Nuclear/Radioactive materials:
According to Act no. 94 of 31 March 1953 on the Use etc. of Radioactive Materials, production, importation, possessing etc. of radioactive materials are subject to prior authorization by the National Institute of Radiation Hygiene under the National Board of Health. The National Institute of Radiation Hygiene is empowered to issue detailed legislation regarding production, importation, use, storage, transport, disposal etc. of such materials and to inspect all holders of authorizations and locations, where radioactive materials are or could be present.

Ongoing/Planned action:
Denmark is actively supporting international efforts to prepare the amendment of the Convention on Physical Protection of Nuclear Materials (CPPNM).

Chemical weapons/materials
All obligations following the Danish ratification of the Chemical Weapons Convention (CWC) are fully enacted in Danish law in Act no. 443 of 14 June 1994 (with later changes) about inspections, declarations and control according to the CWC, as well as in secondary legislation (Executive Order no. 235 of 30 March 2004). The implementation legislation comprises the transfer obligations for trade in scheduled chemicals, including the obligation not to transfer to or receive Schedule 2 chemicals from non-States Parties.

Furthermore, Denmark has established a detailed reporting system whereby producers, processors, consumers, importers and exporters of chemicals listed in the Convention's schedules of chemicals

provide relevant information to the Danish National Authority (the Agency for Enterprise and Construction), which is then collated and transmitted to the OPCW. The OPCW undertake inspections to verify the information provided and are given access to people, places and data in accordance with Denmark's obligations under the CWC.

Biological materials:
In accordance with the Danish Medicines Law no. 656 of 28 July 1995, Section 8, medicinal products must not be manufactured, imported, exported, stored, sold, supplied, dispensed, or packed without an authorization from The Danish Medicines Agency. In accordance with the same law, Section 9, The Danish Medicines Agency inspects facilities, which hold an authorization in accordance with Section 8. Such inspection relates to the content, composition, quality and storage of medicinal products and the conditions under which medicinal products are manufactured, sold or delivered.

On presentation of appropriate identification and without a court order, the representatives of The Danish Medicines Agency have access to the facilities. The Danish Medicines Agency may take or demand samples of medicinal products or substances, which are used for their manufacture. It may require all information necessary for its inspection.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

The Danish Customs Code (law nr. 765 from 05.07.2004); European Community Customs Code (EC2913/92); gives Customs officers the power to demand information in relation to goods imported or exported. Where there are grounds to believe that a declaration as to the ultimate destination of the goods is false, the goods may be detained and ultimately forfeited.

The Danish Customs Code also gives Customs officers the power to stop and search vehicles or vessels to check if they are carrying prohibited goods.

The European Community Customs Code (EC2913/92) grants Customs authorities the power to examine goods and take samples for the purpose of verifying a customs declaration.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Nuclear, chemical and biological weapons and their means of delivery
According to the Weapons Act, Section 6, it is prohibited without a license from the Minister of Justice to export *weapons (of any kind) and war equipment*. "Export" in the meaning of the Weapons Act covers any transfer of items from Denmark to another country no matter if the transfer takes place in connection with export, transit, trans-shipment or re-export. Violation of Section 6 of the Weapons Act is a criminal offence.

A person providing funds and services in connection with export of weapons and war equipment in violation of Section 6 of the Weapons Act may be punished for complicity, cf. the Criminal Code, Section 23, or – depending on the circumstances – Sections 114 a or 114 b, which are described under the heading of operative paragraph 2.

As regards transportation of weapons and war equipment between third countries, it is prohibited to transport *weapons (of any kind) and war equipment* to countries covered by a UN, EU or OSCE arms embargo, cf. the Weapons Act, Section 7 a, cf. the Order on Transportation of Weapons etc. between Third Countries. Furthermore, it is prohibited to transport weapons and war equipment between third countries if the competent authorities in these countries have not issued the necessary export and import licenses according to national legislation in these countries.

Violation of Section 7 a of the Weapons Act and the provisions of the Order on Transportation of Weapons etc. between Third Countries is a criminal offence.

Furthermore, any transportation of weapons with the purpose of terrorism is a criminal offence according to the Criminal Code, Section 114, Subsection 1, cf. Subsection 2.

Dual-use items

The legal basis for control of dual-use items in Denmark is EU-regulation 1334/2000. Hence, reference is made to the EU Common Report that will be transmitted to the UNSC 1540 Special Committee separately. This EU Report covers areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

Through EU-regulation 1334/2000 Denmark controls the export of items listed by the various export control regimes: the Missile Technology Control Regime (MTCR), the Nuclear Suppliers Group (NSG), the Zangger Committee, the Australia Group and the Wassenaar Arrangement.

EU-regulation 1334/2000 is supplemented by national legislation describing the national administration of the regulation, including penal sanctions in case of violation. This act, Act on the application of certain European Communities Acts on economic relations to third countries, (Consolidated Act No 612 of 25th of June 2003), was latest amended in 2003. Following this amendment a licence requirement is now imposed if exporters have grounds for suspecting that certain exports may be related to WMD (1334/2000, art. 4, paragraph 5). This implies end use controls in the sense that export of items not listed in the control list can be denied due to critical circumstances in relation to the export, not only to countries of concern but also when end-users are non-state actors known be related to terrorism.

The maximum penalty for offences related to this act is imprisonment and/or an unlimited fine (Consolidated Act No 612 of 25th of June 2003). In case of aggravating circumstances and when the violation is related to WMD the offence is covered by the Criminal Code, (Consolidated Act No 814 of 30th of September 2003.

Transit/transhipment of dual use items

Reference is made to relevant parts under paragraph 3c and furthermore to the EU Common Report, which will be submitted to the UNSC 1540 Special Committee separately. This EU Report covers

areas of EU and Community competences and activities in relation to UNSC Resolution 1540 and should be read in conjunction with this national report.

Financing related to weapons and dual-use items
The Danish Customs Code (Consolidated act no 765 of 5th of July 2004) gives customs officers, under certain conditions, the power to conduct searches, and to detain cash if it is believed, that it stem from or is intended to be used for a violation of the Criminal Code.

Ongoing/Planned action:
Denmark is at present, as a consequence of Council Joint Action no 401 of 22nd of June 2000, introducing national legislation imposing controls on technical assistance in connection with dual-use goods related to WMD. Furthermore, a committee under The Ministry of Justice is currently drafting new legislation on arms brokering with a view to introducing a bill in the beginning of 2005. The Committee will also consider controls on technical assistance in connection with weapons and war equipment.

Operative Paragraph 5
Decides that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

Denmark has ratified the Nuclear Non-Proliferation Treaty (NPT); the Chemical Weapons Convention (CWC); and the Biological and Toxin Weapons Convention (BTWC). Denmark is member of the IAEA.

Operative Paragraph 6
Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Denmark is a State Party to the Chemical Weapons Convention and applies export controls to listed chemicals. Denmark is also an active member of the multilateral export control regimes: the Nuclear Suppliers' Group, the Zangger Committee, the Australia Group, the Missile Technology Control Regime and the Wassenaar Arrangement. The control lists of these regimes are implemented through the European Union Regulation on control of exports of dual-use items and technology and the Danish Weapons Act.

Denmark strongly supported the decision in all regimes to adapt their guidelines to prevent controlled items from falling into the hands of terrorists and sponsored the corresponding change in the MTCR guidelines.

Ongoing/Planned action:
Denmark urges all states to apply effective export controls similar in scope to the guidelines and control lists adopted by the multilateral export control regimes, and participates in outreach activities to this end. Within the regimes Denmark contributes actively to the regular review and updating of the control lists and supports regime efforts to identify equipment and technologies of particular

relevance to terrorists. In the context of the current national review of arms exports regulations the scope of controls will be considered with respect to the European Union Common Military List and other relevant lists.

Operative Paragraph 7
Recognizes that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Denmark contributes through the EU to various assistance programs. Bilaterally, Denmark has provided assistance to activities related to chemical weapons destruction, nuclear materials safety and dual-use exports controls.

Denmark acknowledges that some States may require assistance in implementing the provisions of Security Council Resolution 1540 within their territories. Denmark will consider providing assistance either bilaterally or through instruments of the European Union as appropriate.

Operative Paragraph 8
Calls upon all States:
(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Denmark actively promotes the universal adoption of the main multilateral disarmament and non-proliferation treaties. Denmark has ratified the Comprehensive Nuclear Test-Ban-Treaty (CTBT), and will continue to promote the entry into force of the treaty. Denmark participates in the implementation of the EU Strategy Against the Proliferation of WMD, which was adopted by the European Council in December 2004.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Denmark considers that national and EU-legislation ensures compliance with key multilateral non-proliferation treaties.

(c) To renew and fulfil their commitment to multilateral co-operation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international co-operation for peaceful purposes;

Denmark continues to support the aims and activities of the IAEA and OPCW. Denmark provides extra-budgetary support for the IAEA Technical Cooperation Fund. During 2003-2004 Denmark served as a member of the IAEA Board of Governors. Denmark is currently preparing the ratification of the IAEA "Convention on Assistance in the Case of an Nuclear Accident or Radiological Emergency".

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Action taken:
The Danish government is developing a close working relationship with industry principally through the National Agency for Enterprise and Construction (NAEC), which is part of the Ministry of Economic and Business Affairs, and PET, the Danish Security Intelligence Service. A close cooperation between the authorities and the Confederation of Danish Industries ensures a positive dialogue and awareness among companies about non-proliferation issues.

The Danish government also provides advice and assistance to industry and relevant academic research institutions in meeting their obligations under the various disarmament and non-proliferation legislation. This has been achieved through NAEC's biannual meetings with all interested companies as well as open seminars and visits to individual companies. In addition, PET has intensified information to and meetings with companies as well as representatives from relevant academic research institutions in order to discuss non-proliferation issues and to raise the general level of awareness in this important area.

Regarding companies inspected by the OPCW the NAEC provides a manual for the inspections and all necessary guidance to the companies, including technical assistance.

Relevant information is disseminated mainly through government websites but also through publications and leaflets. Comprehensive information on Danish export controls, including guidance material, can be found on the NAEC's website at www.ebst.dk/eksportkontrol/0/30

As part of the EU's strategy against WMD proliferation, EU Member States are also committed to maintain the dialogue with industry to reinforce awareness of problems related to nuclear, chemical or biological weapons programs, related materials, and their means of delivery.

Ongoing/Planned action:
Denmark is considering what further action may be necessary.

Operative Paragraph 9
Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

Denmark continues to promote dialogue and co-operation on non-proliferation in a range of fora to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery. Denmark joined "The G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction" as contributing partner in 2004.

Operative Paragraph 10
Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Denmark participates in the various law enforcement experts meetings of the proliferation and export control regimes, where trend information is disseminated, case studies shown, lessons learned are discussed and best practices identified.

Furthermore, Denmark participates actively in the Proliferation Security Initiative (PSI) to ensure the prevention, and, when necessary the interdiction of illegal shipment of WMD to states and non-state actors of proliferation concern. Denmark is under the framework of PSI actively promoting cooperation between Governments and the container liner industry to address this issue.